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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,813	10/12/2000	Yoshichika Komatsu	58647-029	5340
7590	10/08/2003		EXAMINER	
Kenneth L Cage McDermott Will & Emery 600 13th Street NW Washington, DC 20005-3096			NGHIEM, MICHAEL P	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/686,813	KOMATSU ET AL.	
	Examiner Michael P Nghiem	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 July 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,7,8,10,11,13,15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1 is/are allowed.
- 6) Claim(s) 7,8,10,11,13,15 and 17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

The Amendment filed on July 17, 2003 has been acknowledged.

Claim Objections

1. Claim 7 is objected to because of the following informalities: "a output" (line 11) should be – an output --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 8, 10, 11, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Masuo (US 5,579,782).

Masuo discloses all the claimed features of the invention including:

- a body composition measuring apparatus (Figs. 1, 2, 6) with a built-in weight meter (68) based on bioelectrical impedance measurement (column 5, lines 38-43, 49-50), comprising:

- a weight meter (68) for measuring a weight of a person under test (Fig. 6);
- a data input device (15);
- an impedance measurement device (19, 20, 50);
- a CPU (28),
 - said weight meter determines a no-load output thereof immediately after power up of said apparatus (weight meter upon no load, before user steps on meter and after power up, column 11, lines 37-40);
 - said personal body information is entered using said data input device while the person under test stands on said weight meter (Fig. 6) after measuring the weight (column 6, lines 65-66);
 - said CPU estimates the body composition of the person under test based upon an output of said weight meter and data from said input device and said impedance measurement device (column 6, lines 32-37);
 - said weight meter measures the weight in response to detecting the load (column 6, lines 65-66);
 - said personal body information includes at least one of the following: the height, the sex and the age of the person under test (column 6, lines 33-34);

- said body composition includes at least one of the following: the body fat percentage, the fat mass, the amount of body water and the amount of muscle of the person under test (column 16, lines 45-47).

Allowable Subject Matter

3. Claim 1 is allowed.

Reasons For Allowance

4. The combination as claimed wherein an apparatus comprising a data input having personal body information being entered using said data input device while the person under test stands on said weight meter and a weight sensor connected to a CPU is not disclosed, suggested, or made obvious by the prior art of record.

Response to Arguments

5. Applicant's arguments filed on July 17, 2003 have been fully considered but they are traversed as discussed above.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

0956.



MICHAEL NGHIEM
PRIMARY EXAMINER

Michael Nghiem

October 6, 2003